

REMARKS/ARGUMENTS

In response to the Office action of December 13, 2005, Applicants hereby request re-examination and reconsideration of this application for patent pursuant to 35 USC 132.

Claim Status/ Support for Amendments

Claims 1-4 remain pending in the instant application.

Specification

The use of the trademark DARTEK and BYNEL (page 19) has been noted by the Examiner. The Examiner has requested that it be capitalized wherever it appears and be accompanied by the generic terminology.

Upon completing a thorough check of the instant disclosure it appears that these terms are capitalized and associated with a registered trademark indicia (®), thus the rejection is not understood.

If Applicant has inadvertently failed to make a required correction, the Examiner is authorized to do so by Examiner's Amendment, if the case is otherwise ready to be passed to issue.

The disclosure is further objected to because of the following informalities:

a.) At the top of page 15 of the specification, "tetramethy" should probably be changed to --tetramethyl-- to be correct.

Accordingly, appropriate corrections have been made..

Claim Rejections - 35 USC § 112

Claims 1-4 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has indicated that claim 1 is vague. It is pointed out in the instant Office action that the preamble of the claim is not consistent with the body of the claim. In accordance with the Examiner's interpretation, it appears that the preamble recites "a process for producing a displacement assay" but the body of the claim appears to be claiming the steps for performing a displacement assay for the detection of antibodies. The Examiner indicates that the last 2 lines of the claim appear to be detecting a color and relating the presence of color to the presence of antibody. The Examiner suggests that perhaps the preamble of the claim should be amended to recite a process for performing a displacement assay. Step (c) of the claim is further considered to be vague in reciting a "conjugated antibody" because it is not clear as to what the antibody is conjugated to. Step (f) is considered not clear as to what is reacting with the color producing agent to generate the color that is to be detected.

Claim 3 is deemed to be vague. In line 2, "tetramethy" is misspelled. It should be --tetramethyl

Claim 4 is further deemed to be vague because it is not clear as to what the antibody is bound to via the soluble varnish.

The above objections/rejections are believed to be addressed via the instant amendments.

Claim 1 has been amended to state that the antigen or facsimile antigen is "immobilized" upon the clear and flexible polymer film (see basis for amendment on page 12, lines 6-9).

Claim 1 has further been amended to change "conjugated" to --labeled-- the specification is replete with mention of HRP conjugated antibodies. HRP or horseradish peroxidase, is notoriously well-known as a "label" in an antibody/assay environment. Thus for purposes of clarity, the claims have been so amended, to eliminate any confusion regarding the nature of the "conjugated antibody" as originally claimed.

Claim 1, original step (d) has been delete since this was inaccurate.

Claim 1, the last line has been clarified.

The claim, as instantly amended, more accurately reflects the nature of the invention, which is the production of a displacement assay, upon a clear and flexible film.

The claim is meant to be directed toward the formation of the assay, per se, not the actual performance thereof. As such, it is believed that the claim language particularly points out and distinctly claims Applicants' invention.

Claims 2 and 3 have been clarified as indicated.

Claim 4 has been further amended to specify that the labeled antibody is bound to the antigen or facsimile within the water soluble varnish (see page 16, lines 2-6).

Application No. 10/767,464
Response to Office Action of December 13, 2005

CONCLUSION

In light of the foregoing remarks, amendments to the specification, and amendments to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,



Ferris H. Lander
Registration # 43,377

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410
(561) 625-6575 (Voice)
(561) 625-6572 (Fax)

\\Ns2\server\CLIENT FILES\1900-1999\1965 - Toxin Alert\1965U_000025 - UT PAT\Amendments\1965.025_FL_AM1_v1.wpd